

### Remarks

Claims 1-15 are active. Claims 16-20 have been withdrawn. Claims 9-15 have been allowed and claim 4 has been held allowable.

Claims 1-3 and 5-8 have been rejected based on the teachings of US Patent Application Publication No. 2004/0104444 to Wachtmann et al. For the reasons given below, Applicants respectfully disagree and request reconsideration and allowance of the rejected claims.

As an initial matter, it should be noted that in the both the present application and the '444 reference, the handle layer is shown as layer 36 in the Figures. (*The present application*, page 7, lines 23-24: "the bottom layer 36 often is referred to as the 'handle layer 36;'" *the '444 application*, para [0034]: "an acid is used to remove the selected portions of the insulator layer 34. This step thus permits selected portions of the structure 12 to be suspended above the bottom 'handle' layer," para [0021]: the invention is formed on "a silicon-on-insulator ("SOI") wafer, which has an oxide layer between a pair of silicon layers," and para [0026] with reference to Fig. 2, "top and bottom layers 32 and 36" and "insulator layer 34.")

Claim 1 of the present application is directed to a method of producing a MEMS device which in part requires "producing a device layer wafer" which in part includes "forming at least one conductive path" through a portion of a material layer to a conductor. The resulting "produced device layer wafer" is then coupled to a handle wafer. *See also, page 9, lines 13-19.* Such an arrangement is not taught or suggested by the earlier '444 publication.

By contrast, in the '444 reference, the handle layer is already present before a conductive path is established between the device layer and the internal conductor: "The process begins at step 300, in which an SOI wafer [already possessing a handle layer as noted above] is formed

with an internal electrode (i.e., the internal conductive element 16).” *para [0031]*. Then, after providing such an SOI wafer already having a handle layer, the ‘444 reference continues: “The process continues to step 302, in which [trenches are formed].... After the trenches are formed, a conductive or semi-conductor material is added to form the first and second conductive paths 24 and 30.” *para [0032]*.

In short, the ‘444 patent teaches providing a wafer already having a in implanted electrode and an attached handle layer, and *then* forming a conductive pathway through the device layer to the internal conductor. By contrast, claim 1 is directed to a method of manufacturing a MEMS device wherein a conductive path is formed through a device layer to an internal conductor, *before* a handle layer is attached. *See also, page 9, lines 13-19*. Nor does the ‘444 reference provide any motivation or suggestion that would suggest altering its procedure to become one like that of claim 1.

Thus, the method of forming a MEMS device as required by claim 1 is not anticipated by or obvious from the teaching of the earlier ‘444 reference. Thus, claim 1 is allowable; reconsideration and allowance are respectfully requested. Claims 2-8 depend from claim 1 and are similarly allowable for the same reasons.

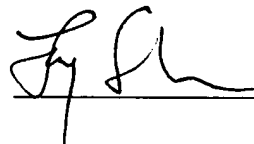
### **Conclusion**

Applicants hereby request a one month extension of time in accordance with the provisions of 37 C.F.R. § 1.136. Please charge deposit account number 19-4972 for the amount of \$120.00 for the fee for the one month extension of time. Applicants believe that no further extension of time is required; however, this conditional petition is being made to provide for the

possibility that the applicants have inadvertently overlooked the need for a further additional extension of time. If any additional fees are required for the timely consideration of the application, please charge deposit account number 19-4972

In view of the foregoing remarks, Applicants believe this application is now in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this response, that the application is not in condition for allowance, the Examiner is invited to call applicants' attorney at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jay Sandvos', is written over a horizontal line.

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